

B. Provisions of the Filing

The Company has proposed to offer a new service entitled Public Cellular Radio Emergency Service. The Company testified that the instant filing is the result of a trial study that it conducted in conjunction with the Connecticut Department of Transportation (DOT). According to the Company, in 1986 the DOT asked SCI to investigate the potential of using cellular technology to transmit emergency calls made to the State Police from motorist aid call boxes located on Connecticut's highways. Beginning in August 1987 and continuing through February 1988, SCI conducted its study to evaluate a total of six call boxes using the cellular technology. These call boxes were installed on the Quinnipiac River Bridge portion of Interstate 95 in New Haven. During the trial, and in a variety of weather conditions, a total of 129 calls were placed from these call boxes. SCI testified that no operational problems were uncovered during the trial which would inhibit motorists from calling for assistance. Therefore, based on the trial, the Company testified that both it and the DOT judged the trial a success. Consequently, the Company has proposed the instant filing. If approved, the proposed service would permit emergency calls made from motorist aid call boxes located on Connecticut's highways to be transmitted to designated Emergency Reporting Centers or Public Safety Answering Points (PSAP's) utilizing cellular technology.

III. AUTHORITY ANALYSIS**A. Public Cellular Radio Emergency Service**

The Company has requested approval to offer a new service, Public Cellular Radio Emergency Service ("Emergency Service"), which would enable the transmittal of emergency calls made to the State Police from motorist aid call boxes located on Connecticut highways. According to the Company, potential subscribers to the instant service are the Connecticut DOT or a reseller. However, the Company testified that, at the present time, only the DOT has approached SCI requesting the service. Additionally, while SCI is currently proposing to be the only provider of Emergency Service, it considers the service to be competitive.

The Authority notes that the proposed tariff would allow the Company to offer Emergency Service to subscribers who may use the service directly or retail it to others. In addition, the non-wireline bulk cellular service provider, Metro Mobile, CTS Inc. ("Metro Mobile"), has testified that it has no interest in offering this service at the present time. The Company's affiliated cellular service reseller, SNET Mobilecom, has also not expressed an interest in providing this service. Therefore, the Authority disagrees with the Company's contention that the instant service is competitive.

The Authority is concerned that the Company's proposed tariff permits the resale of Emergency Service. In support of its proposal, SCI has provided an excerpt from a Federal Communications Commission (FCC) Decision, FCC Docket 79-318, which states that wholesale bulk cellular services must be made available to resellers. The Company also has submitted cellular radio telecommunications emergency service tariffs from the wireline and non-wireline carriers currently operating in New York State. The Authority notes that in each case, the N.Y. State cellular carrier's tariffs require that the "Service will be provided only to public safety agencies responsible by law to respond to calls made from the public for emergency assistance." Nowhere in the NY State Cellular tariffs is there a provision which would permit the resale of the cellular emergency service.

The Authority is fully cognizant of the FCC's policies relative to the resale of cellular service and that prohibition of such would be contrary to the public interest. However, the Authority does not believe that resale of Emergency Service is analogous. Permitting the resale of Emergency Service could create increased subscription costs which would be borne by the actual subscriber (i.e., the DOT); may result in deaveraged monthly service rates; and quite possibly, deter the provision of ubiquitous Emergency Service in the Company's cellular service area. The Company argues that bulk wholesale cellular services must be resold and the Authority generally agrees. However, the Company has not provided sufficient evidence to support its position that the proposed Emergency Service must be resold. In the Authority's opinion, that resale of the Emergency Service would not be in the public interest. In addition, based on the Authority's earlier finding that the Emergency Service is not competitive, we question why it should be resold. For all these reasons, the Authority will not permit the resale of Emergency Cellular Radio Service. The Company is directed to delete the resale provision from its tariff.

B. Flexible Rates

Consistent with past tariff filings, the Company has proposed that the instant service be priced using a flexible rate range. According to the Company, Emergency Cellular Radio Service should be priced in this manner because: it is being offered in a competitive marketplace; it is available to potential resellers; and it would provide SCI with the ability to react to changes in the marketplace. A flexible rate schedule would be used for service order charges (e.g., charges incurred by subscribers to activate or restore service) for each cellular number and for each minute of use experienced beyond 65 minutes per month.

In support of the proposed rates and charges, the Company conducted a resource cost analysis to determine the incremental costs and revenue

associated with the provision of one unit of service. The Company testified that it conducted this type of analysis because the instant service is in response to special needs of the DOT and the impact of this service offering on SCI's network operation would be minimal. The Company submitted the results from this study which indicate that the proposed minimum rates for the cellular numbers and usage are covering their costs.

In past Decisions the Authority has allowed the Company to price its services employing a flexible rate schedule. Beginning with Docket No. 84-08-16, Southern New England Telephone Company Tariff Filing to Provide Bulk Domestic Public Cellular Radio Telecommunications Service, the Authority permitted the use of minimum/maximum rate schedules by the Company. In that proceeding, as well as in other cellular proceedings since that time, the Authority found that this type of rate schedule would provide the Company with the ability to react competitively in the marketplace. It is noted that the Authority first approved flexible tariffs in Docket No. 84-08-16, in anticipation of competition from the entry of the non-wireline cellular carrier in the Connecticut marketplace. However, in the instant case, the Authority has discounted the Company's claims of competition, which obviates the need for flexible rates. Therefore, the Company's flexible rate schedule should be replaced with specific rates and charges.

The results of the Company's cost analysis indicate that SCI would experience monthly costs of \$5.23 per cellular number. The Company is proposing a \$6.00 minimum rate. For each minute of usage beyond the 65 minutes of usage included within the monthly cellular number rate, the Company's figures indicate it would incur approximately \$.08 in costs. The Company is proposing to charge \$0.10 per minute. The Authority finds that in each case, the minimum rates are covering their respective costs while providing the Company with a small margin. Further, the proposed \$30.00 nonrecurring charge would provide a margin over costs of less than \$20.00. However, the Authority notes that the Company incurs costs of less than \$20.00 for changing or suspending cellular numbers and has proposed a \$10.00 charge.

The Authority finds that the provision of Emergency Service at the Company's proposed minimum rates would fulfill a public need. The Authority believes that at the lower monthly service rates, subscription to the Emergency Cellular Service could be increased. Consequently, the Company's revenues should also increase because of greater demand for Emergency Service, and increased revenues generated from its rates and charges. Therefore, the Authority directs the Company to revise the Emergency Cellular Service Tariffs to reflect a \$6.00 monthly rate per cellular number and \$0.10 for each minute of usage beyond 65 minutes per month. The proposed service order charges are acceptable as filed.

C. Minimum Service Requirements

The Company has proposed that customers be required to subscribe to an initial quantity of 50 cellular numbers. Additional cellular numbers would be available to subscribers in blocks of 25. The Company testified that the Emergency Service was designed primarily to satisfy the DOT's initial needs as well as SCI's requirement for committing resources to a new product. Therefore, SCI believes that a minimum threshold is appropriate. In addition, the Company states that a minimum requirement of 50 cellular numbers would provide adequate base-to-average high and low usage cellular call box locations, while enabling the subscriber to control its total cost. Finally, the Company testified that a minimum requirement would be consistent with its Bulk Cellular Tariff. The Company expects that any subscriber reselling the service would purchase the service in bulk and secure its own customers' interest in reasonable quantities.

The Authority is concerned with the effect the minimum service requirements might have on the DOT's subscription to the service. In the Authority's opinion, the 50 number minimum could be detrimental to the public interest, especially since the Company has testified that the instant service was designed for the DOT. Additionally, the Authority believes that the 25 number provision could adversely affect the public interest, since it may prohibit the DOT from subscribing to more cellular numbers until it needs an additional 25. In order to facilitate the DOT's ability to subscribe to this service, the Authority directs the Company to delete the 50 block and 25 block minimum subscription provision from its tariffs.

IV. FINDINGS OF FACT

1. Currently, Public Cellular Radio Emergency Service is not a competitive telecommunications service.
2. Public Cellular Radio Emergency Service is in the public interest.
3. The resale of cellular Emergency Service is not in the public interest and could create increased subscription costs, deaveraged monthly service rates, and, possibly prohibit ubiquitous emergency cellular service.
4. The results of the Company's resource cost analysis are acceptable.
5. The proposed flexible rate schedule should be replaced with specific rates and charges.

6. The proposed minimum rates shall cover their respective costs and provide the Company with a profit.
8. The minimum 50 number subscription provision would delay DOT subscription to emergency cellular service and could be detrimental to the public interest.

V. CONCLUSION AND ORDERS

A. Conclusion

Based on the foregoing, the Authority rejects the Company's tariff as proposed. The Company is directed to refile the Public Cellular Radio Emergency Service tariff consistent with this Decision.

B. Orders

The Company shall submit the revised Public Cellular Radio Emergency Service Tariff to the Department within fifteen days of the Date of the Issuance of this Decision with the following elements:

- a. The Company shall delete all references permitting the resale of Public Cellular Radio Emergency Service from its tariff.
- b. The flexible rate schedule shall be replaced with specific rates and charges consisting of a monthly rate per cellular number of \$6.00 and for each minute of usage beyond 65 minutes of the per month to be \$.10.
- c. The Company shall delete the 50 block and 25 block minimum subscription provision from its tariffs.

We hereby direct that notice of the foregoing be given by the Executive Secretary of this Department by forwarding true and correct copies of this document to parties in interest, and due return make.

Dated at New Britain, Connecticut, this 9th day of November, 1988.

Richard G. Patterson

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Peter G. Boucher

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DEPARTMENT OF PUBLIC UTILITY CONTROL

Otto C. Neumann

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State of Connecticut

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ss.

New Britain, November 9, 1988

County of Hartford

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I hereby certify that the foregoing is a true and correct copy of Decision, issued by the Department of Public Utility Control, State of Connecticut.

CERTIFICATE OF SERVICE

I further certify that where a date is inserted by the Department in the "Date Mailed" space, the Department shall cause the foregoing to be mailed to all parties of record in this proceeding on the date indicated.

Date Mailed:

NOV 14 1988

Attest:

Robert J. Murphy
Executive Secretary
Department of Public Utility Control



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

DOCKET NO. 88-11-26

**APPLICATION OF
METRO MOBILE CTS, INC. - REVISION TO
WHOLESALE CELLULAR MOBILE TELEPHONE
SERVICES TARIFF**

DECISION

JUNE 22, 1989

RECEIVED

DATE 6-28-89
SNET. LEGAL DEPT.

DECISION

I. INTRODUCTION

A. Company Proposal

On November 30, 1988, Metro Mobile CTS, Inc. ("Company" or "Metro Mobile") filed with the Department of Public Utility Control ("Department"), an application to revise its tariff to provide wholesale cellular mobile telephone service in the Hartford, New Haven, New London and Bridgeport New England County Metropolitan Areas ("NECMA") pursuant to § 16-250b of the Regulations of Connecticut State Agencies ("Conn. Agencies Regs."). The Company proposed an effective date of December 9, 1988.

B. Conduct of the Proceedings

Pursuant to Section 16-250(b) and Section 16-250(b)(4)(b) of the Conn. Agencies Regs., the proposed effective date was suspended and a public hearing was conducted to consider this matter fully. In accordance with Section 16-2(c) of the Connecticut General Statutes, this matter was assigned to a panel of three of the Department's five Commissioners who constitute the Public Utilities Control Authority ("Authority").

By Notice of Rescheduled Hearing dated January 18, 1989, a public hearing on this matter was held in the offices of the Department on February 24, 1989, and continued on March 14, 1989, and April 11, 1989. The hearing was closed by Notice of Close of Hearing dated April 25, 1989.

The Department issued a draft Decision on May 12, 1989, requesting written exceptions from admitted parties and intervenors to this proceeding. On May 15, 1989, and May 17, 1989 written comments and exceptions were received from the OCC and Metro Mobile, respectively. In addition, on May 25, 1989, Oral Arguments were presented to the panel by Metro Mobile and the OCC.

On June 5, 1989, a signed Stipulation between the OCC and Metro Mobile was submitted to the Authority for its approval, proposing an alternative to implementation of refunds discussed in Section IV., 4., B., 4. infra. Lastly, in response to a request by the Office of Consumer Counsel dated June 8, 1989, the Department conducted a noticed Technical Meeting on June 14, 1989, to provide clarification on the terms of the OCC/Metro Mobile Stipulation.

C. Parties and Intervenors

The Company and the Office of Consumer Counsel ("OCC") were recognized as parties to this proceeding. The Department designated SNET Cellular Inc., ("SCI") as an intervenor.

The Company did not waive the requirements of Conn. Gen. Stat. §4-179 and was given the opportunity to file written exceptions to the proposed Decision in this matter. In addition, the Company was given the opportunity to request oral arguments.

II. APPLICANT'S EVIDENCE

A. General

The Company is a Delaware corporation controlled by Metro Mobile CTS, a limited partnership. Metro Mobile CTS of Hartford, Inc., Metro Mobile CTS of New Haven, Inc., Metro Mobile CTS of New London, Inc. and Metro Mobile CTS of Fairfield County, Inc., all wholly-owned subsidiaries of the Company, are the non-wireline carriers authorized by the Federal Communications Commission ("FCC") to provide wholesale cellular service in the Hartford, New Haven, New London and Bridgeport NECMAs.

B. Provision of the Filing

The Company's application requests the Department's approval to modify its tariff and service offerings in four areas:

1. Specific charges for cellular telephone numbers "provided" but not "activated".
2. Different access rate and usage rate categories for customers who purchase different volumes of access and usage.
3. Discounts for customers who agree to purchase certain volumes of access numbers for specific periods of time, and increased possible discounts for long-term customers.
4. Elimination of "roamer" tariffs.

III. POSITIONS OF PARTIES AND INTERVENORS

A. Position of Metro Mobile CTS, Inc.

The Company's position as indicated in its brief is as follows:

1. By its application Metro Mobile is seeking to offer its subscribers a lower overall cost of service.
2. Increased cellular competition in Connecticut between Metro Mobile and SCI requires that the Company's tariffs provide it with the ability to change its rates, charges, and terms in order to compete effectively.
3. The proposed access and usage rates changes would provide Metro Mobile with the flexibility to offer different incentives to subscribers, through lower costs, for different levels of service.
4. The proposed access and usage rate changes are designed primarily as a competitive response to SCI.

5. The Company's proposal to require access and usage charges to be assessed for numbers reserved but not activated will serve to make cellular telephone service more affordable to its resellers.
6. The proposed discounts will allow Metro Mobile to respond effectively to discount programs which may be run by SCI.
7. Roamers are neither Connecticut residents nor wholesale customers. Roamers buy a direct retail service pursuant to contracts executed between Metro Mobile and the roamer's facilities-based carrier.
8. Metro Mobile's roaming rates should have never been placed in the tariff and it was in error to have included them.

B. Position of SNET Cellular, Inc.

SCI's position is as follows:

1. The nature of the cellular network constructed by either carrier is a matter of technical design and therefore federal pre-emption applies.
2. Section 16-25(b) of the Connecticut General Statutes requires that the standards and procedures for regulation shall be on an equal basis with regard to all carriers.

IV. AUTHORITY ANALYSIS

The Company has proposed revisions to its "Wholesale Cellular Mobile Telephone Service" tariff. The existing wholesale cellular telephone service tariff was originally filed by the Company in September 1986 and a Decision in Docket No. 86-09-04, Application of Metro Mobile CTS, Inc. For Approval of Wholesale Cellular Mobile Telephone Service Tariff, was rendered by the Department on June 2, 1987.

In support of its proposal, Metro Mobile submitted a financial summary for its wholesale cellular telephone service, including a Long Run Incremental Analysis ("LRIA") indicating that the proposed lower limits to the proposed pricing ranges would not place the Company in an adverse financial condition. The summary estimated the cumulative present worth of net income for its proposed minimum, effective, and maximum rates. Cumulative present worth of net income summarizes the value of net income over a given period (in this case, ten years), taking into account the value of money. The company testified that the results of its study show that any combination of rates between the proposed minimum and maximum rate levels will produce a positive net income. (Positive net income is defined as an excess of revenues over expenses and applicable taxes for a given period).

Over the ten-year study period, the Company estimates the cumulative present worth of net income will amount to \$3.9 million for its proposed minimum rates, \$7.3 million for the proposed effective rates, and \$6.2 million for its proposed maximum rates.

The Authority believes that the current Connecticut cellular market place requires flexibility so that each cellular carrier can compete effectively. Therefore, based on our review of the Company's financial analysis and other evidence submitted, the Authority believes that the financial results projected at the proposed rates are reasonable in the current Connecticut cellular environment. The Authority finds that the Company has satisfactorily sustained its burden of proof.

B. Metro Mobile's Proposed Tariff Revisions

In the instant application the Company has proposed four specific revisions to its existing bulk service tariff: (1) specific charges for cellular telephone numbers "provided" but not "activated"; (2) different access rate and usage rate categories for customers who purchase different volumes of access numbers, as well as a flexible rate schedule to provide for lower minimum rates for each category of access and usage; (3) discounts for customers who agree to purchase certain volumes of access numbers for specific periods of time, and increased possible discounts for long-term customers; and (4) elimination of "roamer" tariffs.

1. Specific charges for cellular telephone numbers "provided" but not "activated".

The Company proposes to revise its tariff to require that access and usage charges be imposed for numbers which are reserved but not activated beginning 30 days after the reservation of a number block. Cellular numbers currently are provided to resellers in an initial order in a block of 50, with subsequent orders in blocks of 25 numbers. The Company proposes to change this rate structure by charging resellers for access for those nonsubscribed cellular numbers beginning thirty days after they are reserved, and charging minimum usage rates starting 60 days after they are reserved. Currently, resellers incur charges for cellular numbers already subscribed to beginning on the first day that the numbers are reserved, regardless of the date of activation. The Company states that the existing rate structure was designed to discourage resellers from reserving more cellular numbers than required. In response to the competitive cellular market, the Company has proposed this change to provide an additional cost incentive to its service resellers.

The Authority is aware of the increasing number of end-users subscribing to cellular service in the Connecticut marketplace. Accordingly, this increased customer demand has stimulated competition between the two bulk cellular providers, Metro Mobile and SCI. It appears that competition between the carriers is not limited to service rates and charges. In the Authority's opinion, the Company's proposal provides its resellers with the ability to purchase blocks of cellular numbers to meet this demand sooner than under the

current tariff structure, and at the same time, the proposed new rate structure decreases the cost to resellers of unsubscribed numbers which ultimately should result in lower costs to end-users. The Company states that based on its experience, its resellers will use discretion in the quantity of cellular numbers reserved, because of the financial impact resulting from any numbers not subscribed after the 60th day. The Authority finds the instant proposal is an appropriate competitive tool to be used in the Connecticut cellular market. As such, the Authority finds the Company's proposal to charge for cellular numbers reserved but not activated to be acceptable as filed.

2. Access Rate and Usage Charges

In its Decision in Docket No. 86-09-04, the Authority approved the Company's minimum-maximum set of rates and charges for cellular basic service for items such as basic cellular usage, optional features and non-recurring charges. The Company testified during that proceeding, that it would not impose any rate or charge less than the minimum nor greater than the maximum and would notify the Department and its subscribers at least 30 days prior to the effective date of any change in rates or charges. In the instant proceeding, the Company has proposed to provide a separate range of rates for resellers (a) purchasing different volumes of access numbers and (b) for different amounts of usage.

Metro Mobile has proposed to provide a separate range of rates for customers subscribing to different volumes of access numbers. Specifically, the Company proposes to restructure its rate range for access by establishing six rate categories with each category providing for a different number of access lines subscribed per month. Currently, the Company's monthly access line rate is priced according to two categories of service, 50 and 25 lines. The Company has proposed to maintain its present rate range of a \$0.00 minimum to \$40.00 maximum rate, per cellular number subscribed per month, and not change the current effective rate.

In addition, the Company has proposed to revise its tariffs to permit the purchase of additional levels of usage. Currently, the Company's tariffs allow it to price cellular usage by either "peak" and "off-peak" periods of time, regardless of the amount used. The Company's proposed revision would be available in both the peak and off-peak periods, providing a usage structure with seven levels, each with differing degrees of minutes of use. The Company also proposes to reduce the minimum rate per minute of usage for peak period from \$0.13 to \$0.08, while maintaining the maximum usage rate for peak period, and minimum and maximum usage rates for off-peak at the present maximum \$0.40 (peak) and \$0.07 and \$0.30 (off-peak). As with its access rates, the Company has proposed no change to its current effective usage rates.

The Company states that the above proposals are designed primarily as competitive responses to the activities of SCI in the wholesale cellular marketplace. Additionally, while SCI has lower minimum access and usage rates, Metro Mobile states that its proposed minimums will provide it with the

additional flexibility required in order to respond competitively to SCI. Lastly, the Company provided the results of a long run incremental analysis which indicates that at the proposed minimum, maximum and effective rates, a positive net income will result.

It is clear that based on the evidence submitted in this proceeding, as well as in past proceedings before the Authority, the cellular industry has grown considerably since 1985 when the provision of cellular service first began in Connecticut. Company testimony, as well as documentation submitted during the hearing, indicate that cellular telephone subscription will continue to grow. The Authority believes that the Company's proposed revisions to both its access rate and usage charge schedules reflect anticipated future growth. This continued growth in the Authority's opinion would likely result in lower operating costs due to economies being experienced by the Company, which most likely will be passed on to end-users in the form of lower rates and charges, further stimulating customer demand.

The Authority notes that the Company's proposed access rate structures, while providing different minimum-maximum rate ranges, and the schedule of access lines subscribed to, mirror that of SCI. Additionally, it is noted that in most cases, Metro Mobile's current effective access and usage rates are lower than SCI's. The Authority has reviewed the results of the Company's long run incremental analysis, as further discussed in Section IV., A., supra, which indicates that at the proposed minimum, effective and maximum rates, the revenues generated will exceed the costs over the life of the study. Therefore, the Authority finds the Company's proposed access rate and usage charge restructuring to be reasonable and acceptable as filed.

3. Discounts

The Company proposes to offer discounts to customers who subscribe to certain volumes of access numbers for specific periods of time, and "increased possible discounts" for long-term customers. It is noted that the Company's tariffs already contained a discount provision, permitting it to discount a customer's total access and usage charges, depending upon the length of service subscribed. The Company testified that it is proposing the different discounts to provide it with the ability to respond effectively to discount programs offered by SCI.

According to the Company's testimony, a reseller will be granted a service discount by agreeing to maintain for a selected period of time a certain level of activated cellular numbers. This discount would be applied to the customer's total monthly bill for cellular numbers and usage. Metro Mobile also proposes that the service discount be for one- or two-year periods within a flexible tariff framework. The proposed flexible tariff ranges from a minimum of 0% to a maximum of 15%. The Authority notes that the Company's tariffs require that the maximum total discount that can be provided to any subscriber for the volume of service and existing length of service discounts would not exceed 15%. The Company, as part of the instant application, filed effective rates ranging from a low of 0% to 5% for a 12 month period and from

0% to 6.5% if the reseller agrees to a 24-month contract. In addition, the Company proposes reducing its effective rate for its existing longevity discount to 0% because it is replacing the longevity discount with a volume and length-of-contract discount in order to maintain a flexible position so that it could respond to changes in competitive market conditions.

The Company's proposed volume discount and effective rates are as follows:

<u>Quantity of Cellular Numbers Activated</u>	<u>Discount (Applied to Total Cellular Number and Usage Charges)</u>	
	<u>Period</u>	
	<u>0 - 12 Months</u>	<u>13 - 24 Months</u>
<u>Band</u>		
A Up to 50 -	0%	0 %
B 51 - 350	2.0	3.5
C 351 - 1,000	2.5	4.0
C 1,001 - 2,500	3.0	4.5
E 2,501 - 5,000	3.5	5.0
F 5,001 - 10,000	4.0	5.5
G 10,001 - 20,000	5.0	6.5
H Over 20,000	5.0	6.5

The record indicates that at the proposed effective rates the resulting discounts based on Metro Mobile's current end user totals, would range from 2.5% to 3.5% for one year and from 4.0% to 5.0% for two years. The Authority believes that the above discounts are a competitive response to those offered by SCI, since Metro Mobile already has the ability to provide for service longevity discounts which have been in use since they were first approved in Docket No. 86-09-04. Additionally, the Authority believes that these discounts would result in benefits to the Company's customers and, ultimately, the cellular end-user. While the Company has proposed to reduce the effective rate to zero for its longevity discount, it does have the flexibility to change this rate at any time following a 30-day advance notification. This flexibility in the Authority's opinion should provide the Company and its resellers with the ability to enhance marketing capabilities by providing for innovative service offerings at lower costs and ultimately, lower monthly service rates and charges for the end-user. Based on the above, the Authority finds that the Company's proposed tariff revisions are fair, reasonable and consistent with the Authority's requirements.

4. Roamer Tariffs

The Company currently includes roamer charges in its tariffs. The Company's tariffs define a roamer as "an access number associated with and normally served by an underlying wholesale cellular carrier other than the Company." In support of its proposal the Company testified that, because roamers are not Connecticut residents or customers, they do not buy retail cellular service from Metro Mobile or SCI. Instead, roamers are billed for service pursuant to contracts between bulk cellular service providers. SCI in

its brief agrees with Metro Mobile in that §16-250b(b) of the Connecticut General Statutes requires that the standards and procedures for regulation of bulk cellular service be on an equal basis for all cellular carriers. It is noted that SCI's tariffs do not contain detailed terms, conditions, rates and charges applicable to roamers. Additionally, in its brief, SCI states that Metro Mobile's proposal to correct a "self-imposed regulatory error" will give the Company the full effect of the legislative intent of §16-250b of the Connecticut General Statutes requiring equal regulation, so that roaming rates, terms and conditions "continue to remain deregulated."

During the hearing, the Company acknowledged that the roaming rate was placed in its tariffs in error. It further testified that roaming is an individually contracted service between intercarriers, with each contract individually negotiated. Consequently, any questions or complaints arising from a foreign end-user concerning Metro Mobile's provision of service, would have to be directed to the roamer's respective wholesale subscriber (reseller).

The Company submitted in the form of a late filed exhibit, a sample contract used for roaming agreements. According to the witness, the Company's roamer contracts generally are standard in nature, with some contracts containing differing market nuances. However, the contracts do not list specific rates. The Company testified the reason for not doing so is that these rates change rapidly. Indeed, during the hearing it was disclosed that the Company changed its approved effective roaming rate since November 1987, resulting in a total of \$276,000 in unauthorized revenues accrued by the Company from roamers.

The Authority does not object to the Company's proposal to remove the applicable roamer rate from its tariffs. We find that approving the Company's requested revision provides Metro Mobile with a level of regulation relative to roamers equal to that which SCI currently enjoys. Therefore, the Authority will approve the Company's request to remove from its tariffs the rates pertaining to roamers.

The Authority does take exception to SCI's statement that roaming rates, charges, terms and conditions should remain deregulated. This aspect of cellular service has never been deregulated. Nowhere in the state statutes or Departmental regulations or in any of the Department's previous decisions does it indicate that cellular roamer service has been or is deregulated. While the Authority forbears from regulating the specific rates and charges pertaining to roamer service, the Department will continue to claim jurisdiction over and regulate the conditions and standards, including accounting practices, relating to the provision of roamer service, pursuant to applicable statutes and regulations.

Relative to Metro Mobile's unauthorized change in roamer rates, the Authority reminds the Company of the testimony presented in Docket No. 86-09-04 that it would notify the Department and subscribers not less than 30 days prior to the effective date of any change in rates and charges. As evidenced during this proceeding, the Company has failed to fulfill its

obligation pertaining to changes in its approved roamer rates. The Company has submitted a late filed exhibit which indicates that since changing the approved effective rates for roamers it has accrued \$276,000. While the Company's failure to notify the Department of any change in rates appears to be unintentional, the fact remains that Metro Mobile has violated the terms and conditions of its approved tariffs.

In response to the Authority's draft Decision, Metro Mobile submitted written comments and presented oral arguments objecting to the Authority's order to refund the \$276,000 in unauthorized revenues. Specifically, Metro Mobile believes this refund to be unjust, unwarranted and would create an undue burden on its Connecticut operation. In addition, Metro Mobile alleges that the refund is a penalty or fine, as defined by §16-41 of the Conn. General Stat., and questions this requirement relative to the mandate for equal regulation of cellular wholesale carriers contained in §16-250 Conn. General Stat. The OCC stated in its comments that it endorses the refund and the requirement that Metro Mobile inform the Department prior to enacting any changes to its rates or other information.

The Authority disagrees with Metro Mobile's contention that the ordered refund of \$276,000 is a penalty or fine. The Company has simply been ordered to refund those revenues accrued from a change in rates which was never approved by the Department. Accordingly, Metro Mobile's questioning of the Department's statutory authority, (i.e. Conn. General Stat. §16-41) is moot. Additionally, the Authority is not persuaded by the Company's argument that the refund is unjust, unwarranted and burdensome. In the Draft Decision, the Authority found that a refund is necessary because Metro Mobile failed to fulfill its obligations as stated within its tariffs and testimony it offered in Docket No. 86-09-04 and subsequently approved by the Department in its Decision in that case. Further, it was the Company's choice to include the rates for roamer service within its tariffs. In doing so, it subjected itself to Department oversight of all the terms and conditions contained in the tariff and all authority associated therewith. Finally, the Authority did not accept Metro Mobile's argument that the provision of refunds would be burdensome because of the limited number of affected carriers. Likewise, the period of time in which the rate changes occurred (i.e. eighteen months), is also limited. Consequently, workable parameters have been established, and therefore, the associated administrative costs claimed by the Company should be minimal. The Authority also noted that the affected wholesale cellular carriers may never be located, nor the refunds eventually provided to end-users. However, in the Authority's opinion, refunds are warranted and should be provided to the extent possible.

On June 5, 1989, a Stipulated Agreement between the two parties to the instant docket, OCC and Metro Mobile, was submitted to the Department for its review. The OCC/Metro Mobile Stipulation proffered an alternative to the ordered refund. Specifically, Metro Mobile agrees to contribute \$300,000 in cellular mobile telephone equipment to certain Connecticut municipalities. This amount, according to the Stipulation, would include the costs associated with ancillary equipment, labor and installation, where necessary.

On June 9, 1989, SCI submitted an objection to the Stipulation. SCI requested that the Stipulation be rejected because it "is not in the public interest; makes a mockery of the Department's tariffs; and, cloaks Metro Mobile with the veneer of a state endorsement for its competitive position." Additionally, SCI stated that it would be aggrieved by the Authority's approval because it would be foreclosed from effective competition in the cellular municipal market.

The parties to the Stipulation requested a noticed Technical Meeting be held to clarify any points or answer any questions about the terms of the Stipulation. At the noticed meeting held on June 14, 1989, the parties provided additional information on the terms of the Stipulation, and answered questions posed by Department staff.

The Authority has reviewed the Stipulation and it notes that the technical meeting did not dispel the concerns raised at the time of initial review. We find that if approved, the stipulation may provide benefits to only a limited number of towns and municipalities because cellular service is not yet ubiquitous in the state of Connecticut. Towns in counties such as Litchfield and Windham where cellular service is not available currently would not be able to participate in the program.

Second, since no survey of the potentially affected municipalities has been conducted, it is not known (generally or specifically) whether or to what extent there is a need or interest in such equipment, much less what type or amount. In order to discover the towns' needs and interests in cellular mobile telephone equipment and service Metro Mobile proposes to send an informational booklet to the affected 115 to 125 towns notifying them of the availability of different types of equipment and offering each town three units of cellular equipment in any combination of types, for police, fire, ambulance or other emergency service. If a town does not need or avail itself of this offer, or if the first solicitation does not result in disbursement of equipment and associated costs up to the \$300,000 amount, then subsequent contacts will be made with towns desiring more equipment until the target \$300,000 is achieved. Therefore, the Authority questions whether an equitable distribution can take place without a significant investment of time and resources.

Third, the Authority is concerned with the uncertainties surrounding the cost to administer and implement such a program. During the noticed meeting, a company representative estimated the program would take approximately four months to complete. When questioned about the nature and costs relating to this program, the Company stated that it would be incorporated into Metro Mobile's normal marketing and customer service activities, and therefore costs would be minimal and would be considered as part of its overhead.

The Authority finds Metro Mobile's statements regarding administrative costs and burdens required to administer the equipment disbursement program puzzling at best. In its written comments on the Draft decision, one of the objections to the Authority's refund order raised by Metro Mobile was that

issuing refunds to the affected carriers would be a "'Herculean' undertaking....requir[ing] that Metro Mobile employ 1 to 2 new individuals whose sole function for a period of 1 to 2 months would be to identify, calculate and establish a system for the proposed refunds" and that the Company would incur an "appreciable expense" to do so. However, Metro Mobile characterized as "minimal" the administrative burdens and costs associated with a proposed program to disburse equipment to 115-25 towns, whose needs or interests are generally unknown and which could take up to four months to complete. In the Authority's opinion refunding the \$276,000 in unauthorized revenues to the applicable carriers should be easily accommodated by the Company's billing and customer service personnel and as such, would not impose a greater cost or administrative burden on Metro Mobile.

In light of the above, the Authority rejects the proffered Stipulation which was submitted in lieu of the pertinent findings, conclusions and orders in the draft Decision. The Authority concludes that the Stipulation does not provide a less costly, less burdensome, more equitable resolution to the administrative expenses and difficulties the Company alleges it would incur to refund the unauthorized revenues as ordered in the draft Decision. As such, the Stipulation will not provide for the public convenience, necessity and welfare. Therefore, Metro Mobile is directed to provide the Authority with a schedule indicating the derivation of the total revenues accrued as indicated in Late Filed Exhibit 11. The schedule should indicate the name and address of each carrier, the roamer rate(s) charged by Metro Mobile since November 1, 1987, and a listing by date, of the revenues accrued by Metro Mobile on a per carrier basis. The Company shall submit this schedule to the Department for review and approval prior to issuance of refunds.

If Metro Mobile experiences any of the difficulties it raised in written comments and oral arguments regarding determination or identification of the proper carrier or refund recipient, those funds shall be paid to the Treasurer of the State of Connecticut in accordance with applicable statutes pertaining to escheats.

5. Promotions

The Company also has proposed revised tariff language permitting it to suspend rates and charges during limited promotional periods. It testified that it was proposing this change to achieve flexibility to respond to market conditions.

The Authority believes that the offering of service promotions on a limited basis is an acceptable means of increasing subscriber bases and stimulating demand. The Authority has at various times, but only after advanced notification to and prior approval by the Authority permitted the Southern New England Telephone Company to conduct promotions. There is no evidence on record of any adverse effects resulting from these promotions. Since these promotions are rate changes, and as the Company's tariffs require, it will notify the Department of its intention to offer such promotions at a

minimum of 30 days prior to the effective date. This notification should include the period of time the promotion would be implemented, a description of the planned promotion, and the number of subscribers affected. Upon completion of the promotional period, the Authority will order the Company to report the results in writing to the Department, including any increase in the minutes of usage and/or number of access lines subscribed. The Authority finds the Company's proposed tariff revision including the offering of promotions acceptable, subject to the conditions outlined above.

V. FINDINGS OF FACT

1. Evidence submitted by the Company indicates that the proposed minimum, effective and maximum rate combinations will generate revenues which will equal or exceed costs over the long term.
2. There is an increasing number of end-users subscribing to cellular service in the Connecticut marketplace, resulting in an increase in competition between the two bulk cellular providers, Metro Mobile and SCI.
3. The Company's proposal to provide for cellular numbers reserved but not activated is acceptable.
4. The Company's revisions to its minimum-maximum rate schedules are found to be fair, reasonable, not unduly discriminatory and consistent with Department requirements.
5. The proposed discounts are nondiscriminatory and will provide resellers with additional flexibility in the cellular marketplace.
6. The Company included its roaming rate in its current tariffs in error.
7. Roaming is an individually contracted service between intercarriers. Consequently, any questions or complaints arising from a foreign end-user concerning Metro Mobile's provision of service would have to be directed to the roamer's respective wholesale subscriber (reseller).
8. Roamer contracts are generally standard, although some contain differing market nuances and do not list specific rates because they change rapidly.
9. The Company has changed its approved effective roaming rate since November 1987, resulting in a total of \$276,000 in revenues accrued.
10. The Company has failed to fulfill its obligation pertaining to the notification of a change in rates relating to roamers, in violation of its tariffs.

11. Removing the roaming rate from the Company's tariffs would provide it with a level of regulation equal to that currently enjoyed by SCI.
12. Rates, charges, terms and conditions pertaining to roamers have never been deregulated, and are within the jurisdiction of the Department.
13. The offering of service promotions on a limited basis is an acceptable means of increasing subscriber bases and stimulating consumer demand.

VI. CONCLUSIONS AND ORDERS

Based on the foregoing, the Authority concludes that approval of the proposed tariff modifications is in the public interest, subject to the orders below. The proposed stipulation proffered by the OCC and Metro Mobile will not provide for the public convenience, and necessity and welfare.

1. The effective date of the proposed tariff shall be the date of this Decision and Metro Mobile CTS is directed to refile the approved tariff pages, indicating said effective date within fifteen days of the date of this Decision.
2. The Company shall notify the Department a minimum of 30 days prior to the effective date of implementation of any promotion that it intends to conduct. Such notification will include the period of time the promotion is to be implemented, a description of the planned promotion, and the number of customers affected. Upon completion of any such promotion, Metro Mobile is to report the results in writing to the Department, including any increase in the minutes of usage and/or number of access lines subscribed.
3. Metro Mobile shall refund those revenues accrued since November 1987 which are in excess of its authorized roamer tariffed rates as approved by the Department in its Decision in Docket No. 86-09-04, Application of Metro Mobile CTS, Inc. For Approval of Wholesale Cellular Mobile Telephone Service Tariff, dated June 2, 1987. Within fifteen days of the issuance of this Decision, the Company shall provide to the Department a schedule indicating the derivation of the total revenues accrued contained in Late Filed Exhibit No. 11, the name and address of each affected carrier, the roamer rate(s) charged by Metro Mobile since November 1, 1987, and a listing by date of the revenues accrued by Metro Mobile on a per carrier basis.

We hereby direct that notice of the foregoing be given by the Executive Secretary of this Department by forwarding true and correct copies of this document to parties in interest, and due return make.

Dated at New Britain, Connecticut, this 22nd day of June, 1989.

Richard G. Patterson }

Peter G. Boucher } DEPARTMENT OF PUBLIC UTILITY CONTROL

Otto C. Neumann }

State of Connecticut }
 } ss. New Britain, June 22, 1989
County of Hartford }

I hereby certify that the foregoing is a true and correct copy of Decision, issued by the Department of Public Utility Control, State of Connecticut.

CERTIFICATE OF SERVICE

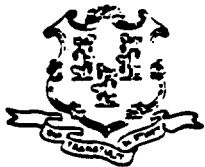
I further certify that where a date is inserted by the Department in the "Date Mailed" box below, a copy of the Decision was forwarded by Certified mail to all parties of record in this proceeding on the date indicated.

Date Mailed:

JUN 26 1989

Attest:


Robert J. Murphy
Executive Secretary
Department of Public Utility Control



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

DECISION

October 24, 1991

In reply, please refer to:

Docket No. 90-01-03:TE:PAP

Peter J. Tyrrell, Esquire
Springwich Cellular Limited Partnership
227 Church Street
New Haven, Connecticut 06510

Re: Docket No. 90-01-03, Application of SNET Cellular Inc., to Change Tariff Name for SNET Cellular, Inc., to the Springwich Cellular Limited Partnership

Dear Mr. Tyrrell:

On January 3, 1990, SNET Cellular Inc. ("SCI" or "Company") filed with the Department of Public Utility Control ("Department") a request to change the name in SCI's tariffs. Specifically, the Company requested the Department's approval to change the name in its tariffs to Springwich Cellular Limited Partnership ("Partnership"). SCI is both a general and limited partner in the Partnership. Other limited partners in the Partnership are the Woodbury Telephone Company, Granby Telephone Company, Nynex Mobile Communications Inc., and the New York SMSA Limited Partnership. According to the Company, the Partnership was formed because of the community of interest existing between the Springfield Massachusetts and Connecticut marketplace.

By its Decision in this docket, dated March 15, 1990, SCI was directed to submit to the Department an "initial application" for its review and approval pursuant to Section 16-250b-4 of the Regulations of Connecticut State Agencies. The Department also granted interim approval to the Company's request pending a final Decision in this matter. The Company filed its application with the Department on April 25, 1990.

At a special meeting held on October 24, 1991, a panel of three of the five Commissioners who constitute the Public Utilities Control Authority ("Authority") considered this matter. The Authority has reviewed the SCI/Springwich

Continued.....

Docket No. 90-01-03
October 24, 1991
Page 2

Partnership application and notes that the change in name has not had an impact on customers or the Company's bulk wholesale cellular service rates and charges. Additionally, SCI has been able to expand its service territory providing end-users with a larger calling area (i.e., calls between Connecticut and Springfield will no longer be subject to interstate toll rates) which has permitted the Company to provide service in a comparable coverage area to its competitor.

Based on the foregoing, the Company's proposed name change is approved. Accordingly, the Company is directed to file with the Department no later than November 15, 1991, revised tariffs effective October 23, 1991.

Very truly yours,

DEPARTMENT OF PUBLIC UTILITY CONTROL



Robert J. Murphy
Executive Secretary

cc: Service List